



National Park Service
U.S. Department of the Interior

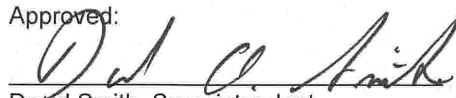
Brown v. Board
of Education
National Historic Site

1515 SE Monroe Street
Topeka, KS 66612-1143

Superintendent's Compendium
Of Designations, Closures, Permit
Requirements and Other Restrictions
Imposed Under Discretionary Authority.

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Approved:


David Smith, Superintendent
Date: July 3, 2014

A. INTRODUCTION

1. Superintendent's Compendium Described

The Superintendent's Compendium is the summary of park specific rules implemented under 36 Code of Federal Regulations (36 CFR). It serves as public notice, identifies areas closed for public use, provides a list of activities requiring either a special use permit or reservation, and elaborates on public use and resource protection regulations pertaining specifically to the administration of the park. The Superintendent's Compendium does not repeat regulations found in 36 CFR and other United States Code and CFR Titles, which are enforced without further elaboration at the park level.

The regulations contained in 36 CFR, Parts 1-7, are the basic mechanism used by the National Park Service (NPS) to preserve and protect the natural and cultural resources of the park and to protect visitors and property within the park. Parts 1 through 6 are general regulations applicable to all areas of the National Park system, and Part 7 contains special regulations specific to individual parks. Each of these Parts has many sections and subsections articulating specific provisions. Within some of these Part 1-7 sections and subsections, the Superintendent is granted discretionary authority to develop local rules to be responsive to the needs of a specific park resource or activity, park plan, program, and/or special needs of the general public.

As an example, 36 CFR 1.5(a) *Closures and Public Use Limits* provides the Superintendent certain discretion in allowing or disallowing certain activities. The authority granted by the Section, however, requires the Superintendent to comply with the Administrative Procedures Act (6 USC Section 551), which requires public notice on actions with major impact on visitor use patterns, park resources or those that are highly controversial in nature.

Another example is 36 CFR 1.6 *Permits*, which allows the Superintendent to require a permit for certain uses and activities in the park. This Section, however, requires that a list of activities needing a permit (and a fee schedule for the various types of permits) be maintained by the park.

A final example is 36 CFR 2.1(c) (1) *Preservation of Natural, Cultural and Archeological Resources*, which provides the Superintendent the authority to designate certain fruits, nuts, berries or unoccupied seashells which may be gathered by hand for personal use or consumption. This activity can occur, however, only if a written determination shows that

the allowed activity does not adversely affect park wildlife, the reproductive potential of a plant species, or otherwise adversely affect park resources.

This Compendium should be used in conjunction with Title 36 CFR, Parts 1-7, to more fully understand the regulations governing the use and enjoyment of all the areas of the national Park system.

A copy of Title 36, CFR, can be purchased from the U.S. Government Printing Office at:

Superintendent of Documents
P.O. Box 371954
Pittsburgh, PA 15250-7954

The CFR is also available on the Internet at:

http://www.access.gpo.gov/nara/cfr/waisidx_05/36cfrv1_05.html

2. Laws and Policies Allowing the Superintendent to Develop This Compendium

The National Park Service (NPS) is granted broad statutory authority under 16 United States Code (U.S.C.) Section 1 *et seq.* (Organic Act of 1916, as amended) to "...regulate the use of the Federal areas known as national parks, monuments, and reservations...by such means and measures as conform to the fundamental purposes of the said parks...which purpose is to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment for future generations" (16 U.S.C. Section 1). In addition, the NPS Organic Act allows the NPS, through the Secretary of the Interior, to "make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks, monuments, and reservations under the jurisdiction of the National Park Service" (16 U.S.C. Section 3).

In 1970, Congress amended the NPS Organic Act to clarify its intentions as to the overall mission of the NPS. Through the General Authorities Act of 1970 (16 U.S.C. Sections 1a1-1a8), Congress brought all areas administered by the NPS into one National Park system and directed the NPS to manage all areas under its administration consistent with the Organic Act of 1916.

In 1978, Congress amended the General Authorities Act of 1970 and reasserted system-wide the high standard of protection defined in the original Organic Act by stating "Congress further reaffirms, declares, and directs that the promotion and regulation of the various areas of the National Park system, as defined by Section 1 of this Title, shall be consistent with and founded in the purpose established by Section 1 of this Title, to the common benefit of all people of the United States."

16 U.S.C. Section 1c defines the National Park system as "...any areas of land and water now or hereafter administered by the Secretary of the Interior through the National Park Service for park, monument, historic, parkway, recreational, or other purposes."

In addition to the above statutory authority, the Superintendent is guided by established NPS policy as found in the *NPS Management Policies* (2006). The Superintendent is also guided by more specific policies promulgated by the Director, National Park Service, in the form of Director's Orders. As stated in the Management Policies, the primary responsibility of the NPS is to protect and preserve our national natural and cultural resources while providing for the enjoyment of these resources by visitor and other users,

as long as use does not impair specific park resources or overall visitor experience. The appropriateness of any particular visitor use or recreational experience is resource-based and will vary from park to park; therefore, a use or activity that is appropriate in one park area may not be appropriate in another. The Superintendent is directed to analyze overall park use and determine if any particular use is appropriate. Where conflict arises between use and resource protection, where the Superintendent has a reasonable basis to believe a resource is or would become impaired, than that Superintendent is obliged to place limitations on public use.

3. Consistency of This Compendium with Applicable Federal Law and Requirements

The Superintendent's Compendium is not considered a significant rule requiring review by the Office of Management and Budget under Executive Order 12866. In addition, this Compendium will not have a significant economic effect on a number of small entities nor impose a significant cost on any local, state or tribal government or private organization, and therefore does not fall under the requirements of either the Regulatory Flexibility Act or the Unfunded Mandates Reform Act.

The actions and requirements described in this Compendium are found to be categorically excluded from further compliance with the procedural requirements of the National Environmental Policy Act (NEPA) in Department of the Interior (DOI) Guidelines 516 DM 6 and as such, an Environmental Assessment will not be prepared.

4. Development of the Requirements of the Superintendent's Compendium

As outlined above, the NPS has broad authority and responsibility to determine what types of uses and activities are appropriate in any particular National Park system area. The requirements of the Superintendent's Compendium are developed through an analysis and determination process. The decision criteria used during this process are:

- Is there use or activity consistent with the NPS Organic Act and NPS policy?
- Is the use or activity consistent and compatible with the park's enabling legislation, management objectives, and corresponding management plans?
- Will the use or activity damage the park's protected natural and cultural resources and other protected values?
- Will the use or activity disturb or be in conflict with wildlife, vegetation, and environmental protection actions and values?
- Will the use or activity conflict with or be incompatible with traditional park uses and activities?
- Will the use or activity compromise employee or public safety?

5. Applicability of the Compendium

The rules contained in this Compendium apply to all persons entering, using, visiting or otherwise present on Federally owned lands, including submerged lands, and waters administered by the NPS within the legislative boundaries of the park. This includes all waters subject to the jurisdiction of the United States, including all navigable waters.

6. Enforcement of Compendium Requirements

NPS Law Enforcement Park Rangers enforce the requirements of the United State Code, 36 CFR, and this Superintendent's Compendium.

7. Penalties for Not Adhering to the Compendium Requirements

A person who violates any provision of the regulations found in 36 CFR, Parts 1-7, or

provisions of this Compendium, is subject to a fine as provided by law (18 U.S.C. 3571) up to \$5,000 for individuals and \$10,000 for organizations, or by imprisonment not exceeding six months (18 U.S.C. 3559), or both, and shall be adjudged to pay all court costs associated with any court proceedings. You may receive a list of fines associated with any particular provision by contacting the Superintendent at the park address found below.

8. Comments on the Compendium

The Compendium is reviewed annually and revised as necessary. The park welcomes comments about its program and activities at any time.

Written comments on the Compendium may be submitted to:

Superintendent
Brown v. Board of Education National Historic Site
1515 SE Monroe
Topeka, KS 66612-1143

9. Effective Date of the Superintendent Compendium

The Superintendent's Compendium is effective on the approval date listed on the first page of this document, and remains in effect until revised for a period up to one year.

10. Additional Information

Some of the terms used in this Compendium may have specific meaning defined in 36 CFR 1.4 *Definitions*.

11. Availability

Copies of the Compendium are available at Brown v. Board of Education National Historic Site; 1515 SE Monroe; Topeka, KS 66612-1143. It may also be found at www.nps.gov/brvb

B. SUPERINTENDENT'S COMPENDIUM

In accordance with regulations and the delegated authority provided in Title 36, Code of Federal Regulations ("36 CFR"), Chapter 1, Parts 1-7, authorized by Title 16 United States Code, Section 3, the following provisions apply to all lands and waters administered by the National Park Service, within the boundaries of **Brown v. Board of Education National Historic Site**. Unless otherwise stated, these regulatory provisions apply in addition to the requirements contained in 36 CFR, Chapter 1, Parts 1-7.

Written determinations, which explain the reasoning behind the Superintendent's use of discretionary authority, as required by Section 1.5(c), appear in this document identified by text boxes.

36 CFR §1.5 – VISITING HOURS, PUBLIC USE LIMITS, CLOSURES, AND AREA DESIGNATIONS FOR SPECIFIC USE OR ACTIVITIES

(a)(1) The following visiting hours and public use limits are established for all or for the listed portions of the park, and the following closures are established for all or a portion of the park to all public use or to a certain use or activity:

I. VISITING HOURS

- Brown v. Board of Education NHS is open from 9:00 a.m. to 5:00 p.m., seven days a week, except January 1, Thanksgiving Day, and December 25.

Reason for Determination:

The above schedule is in place to provide maximum Visitor and Resource Protection consistent with current staffing levels. These hours of operation meet the needs of current visitation trends for the park. Activities may occur throughout the year outside of these times and will be advertised as such.

Public Use Limits:

- Public access to the basement and administrative offices may be restricted.

Reason for Determination:

There are no interpretive exhibits in the basement and unfettered access to equipment stored in this area poses a potential hazard to visitors. Unsecured administrative offices may have personnel files and government equipment that is secured for public good.

Closures:

- During maintenance procedures at Brown v. Board of Education NHS, any area may be closed to the public, to ensure safety. These areas will be clearly marked by construction perimeter fencing, roping, chaining, and/or taping, and may be secured by hasps and padlocks.

Reason for Determination:

Temporary closures for construction and/or repair activity are necessary to facilitate a safety zone and ensure the protection of employees and visitors. The park will adhere to regulatory requirements provided by OSHA or other regulatory body applicable to the activity at hand.

- Food and drink are not allowed within the historic school except by permit, except for closable water bottles and food that is essential for medical purposes.

Reason for Determination:

The prohibition of consumable items in the historic structure guards against inadvertent spills, litter, or the potential to attract pests that may be attracted to or damage the building and exhibits.

- All parking areas in the park are closed to camping and overnight parking.

Reason for Determination:

Since overnight use and camping is prohibited in the park there is no valid reason for a vehicle to remain in the park overnight unless the National Park Service has been previously advised and authorized its presence overnight.

- Passenger Carrying Bus Engine Idling is not permitted, engines must be shut down when not underway.

Reason for Determination:

The idling of bus engines adds unnecessary exhaust fumes to the air and diminishes the enjoyment by visitors of the peace and tranquility of the park.

- Launching, landing, or operating an unmanned aircraft from or on lands and waters administered by the National Park Service within the boundaries of Brown v. Board of Education National Historic Site is prohibited except as approved in writing by the superintendent.

***Definition:** The term "unmanned aircraft" means a device that is used or intended to be used for flight in the air without the possibility of direct human intervention from within or on the device, and the associated operational elements and components that are required for the pilot or system operator in command to operate or control the device (such as cameras, sensors, communication links.) This term includes all types of devices that meet this definition (e.g. model airplanes, quadcopters, drones) that are used for any purpose, including for recreation or commerce.*

Reason for Determination:

The usage of unmanned aircraft within the park boundaries poses a substantial threat to public safety. The visual and sound disturbance caused by the use of unmanned aircraft also detract from the historical significance of the site, preventing visitors from benefiting from its primary purpose.

II. PERMITS

36 CFR §1.6 – ACTIVITIES THAT REQUIRE A PERMIT

The following is a compilation of those activities for which a permit from the superintendent is required:

- §2.12 Audio Disturbances:
 - (a)(3) Operation of any type of portable motor or engine, or device powered by a portable motor or engine in non-developed areas
 - (a)(4) Operation of a public address system in connection with a public gathering or special event for which a permit has been issued pursuant to §2.50 or §2.51
- §2.17 Aircraft & Air Delivery:
 - (a)(3) Delivery or retrieval of a person or object by parachute, helicopter or other airborne means
 - (c)(1) Removal of a downed aircraft
- §5.3 Engaging in or soliciting any business (Requires a permit, contract or other written agreement with the United States, or must be pursuant to special regulations)
- §2.37 Soliciting or demanding gifts, money goods or services (Pursuant to the terms and conditions of a permit issued under §2.50, §2.51 or §2.52)

- §2.50(a) Special events – sports events, public spectator attraction, entertainment ceremony, similar events such as picnics with more than 25 people
- §2.51(a) Public assemblies, meetings, gatherings, demonstrations, parades and other public expressions of views
- §2.52(c) Sale or distribution of printed matter that is not solely commercial advertising
- §5.3 Engaging in or soliciting any business (Requires a permit, contract or other written agreement with the United States, or must be pursuant to special regulations)
- §5.5 Commercial Photography/Filming:
 - (a) Commercial filming of motion pictures or television involving the use of professional casts, settings or crews, other than bona fide newsreel or news television
 - (b) Still photography of vehicles, or other articles of commerce or models for the purpose of commercial advertising.
- §2.62 Memorialization:
 - Scattering ashes from human cremation

Inquiries about special use activity requirements and permit applications may be made by contacting Superintendent, Brown v. Board of Education National Historic Site, 1515 SE Monroe Street, Topeka, KS 66612-1143; 785-354-4273 phone; 785-354-7213 fax

Reason for Determination:

Activities listed above require Special Use Permits due to their potential for impact on visitation patterns, enjoyment, or other areas of the park, thereby requiring regulation by the Superintendent or his/her designee. Consideration will be weighed against the following: Cause injury or damage to park resources; or Impair the atmosphere of peace and tranquility or is contrary to the purposes the park; or Unreasonably interfere with park operations; or Substantially impair the operation of public use facilities or services of National Park Service contractors; or Present a danger to public health and safety; or Conflict with other existing uses.

36 CFR §1.7 – Public Notices

Copies of this compendium and activity area maps are available on the Internet at www.nps.gov/brvb and available upon request at:

Superintendent
Brown v. Board of Education National Historic Site
1515 SE Monroe Street
Topeka, KS 66612-1143
785-354-4273 phone

III. GENERAL REGULATIONS

36 CFR §2.1 – PRESERVATION OF NATURAL, CULTURAL AND ARCHEOLOGICAL RESOURCES

(a)(5) Walking on climbing, entering, ascending, descending, or traversing a cultural resource, monument, or statue, except in designated areas and under conditions established by the superintendent.

Reason for Determination:

This prohibition exists because of the numerous cultural resources throughout the park that may be irrevocably damaged or cause a public safety concern. Designated areas for pedestrian use include playgrounds, sidewalks, pathways and other established walkways. Prohibition includes but is not limited to climbing buildings, park signs, and exhibits.

(a)(7) Possessing or using a mineral or metal detector, magnetometer, side scan sonar, other metal detecting device, or sub bottom profiler.

Reason for Determination:

The grounds are a cultural landscape where the use of such devices and the digging associated with them will adversely affect the park resource.

36 CFR §2.11 – PICNICKING

- Individual and family picnicking is limited to picnic baskets, brown bagging, lunch boxes and the like and is permitted on public park grounds unless otherwise prohibited in the compendium.

Reason for Determination:

Picnicking is allowed at the tables to the south side of the school and on the grassy areas.

36 CFR §2.4 – WEAPONS, TRAPS, AND NETS

(h) Notwithstanding any other provision in this Chapter, a person may possess, carry, and transport concealed, loaded, and operable firearms within a national park area in accordance with the laws of the state in which the national park area, or that portion thereof, is located, except as otherwise prohibited by applicable Federal law.

- This authority does not extend to Federal facilities within the park (18 U.S.C. 930(a)). Federal facilities include: the Visitor Center (former Monroe Elementary School).

Reason for Determination:

Park regulation cannot be less restrictive than United States Code.

36 CFR 2.13 – FIRES

(a)(1) The lighting or maintaining of fires is generally prohibited, except as provided for in the following designated areas and/or receptacles, and under the conditions noted:

Designated Areas:

- None

Receptacles Allowed:

- None

Established Conditions for Fires:

- None

(a)(2) The following restrictions are in effect for the use of stoves or lanterns:

- No lantern, stove, or other open flame may be used inside the historic building.

Reason for Determination:

This prohibition exists because of the numerous cultural resources throughout the park that may be irrevocably damaged or cause a public safety concern.

36 CFR §2.15 – PETS

(a)(1) The following structures and/or areas are closed to the possession of pets:

- Pets may be excluded from public areas within park structures (guide animals are excepted). During extreme temperature conditions, non-aggressive animals may be brought into public areas, excluding the exhibit halls and galleries, for the safety of the animal.

Reason for Determination:

Consistent with public health and safety, the protection of natural and cultural resources, and avoidance of conflict among visitor use activities, pets must be restricted. Pets are not considered compatible with the broad park goal of minimal visitor impact nor are they inherently suitable for adapting quickly to a strange environment often involving close association with strange persons or other animals. It is recognized that many park visitors have pets and they are permitted where they do not jeopardize basic park values. This does not apply to animals assisting people with disabilities.

(a)(3) Leaving a pet unattended and/or tied to an object:

- Pets will not be left in areas where food, water, shade, ventilation and other basic needs are inadequate.
- Pets will not be left tied to light poles, handrails, or trees.
- Leashes will not exceed 6 foot length.

Animals running-at-large and not claimed by the owner within a reasonable period of time will be turned over to City of Topeka animal control officers.

Reason for Determination:

These requirements are intended to protect visitors, natural resources, park structures and to ensure pets are properly cared for while in the park.

(a)(5) Pet excrement must be disposed of in accordance with the following conditions:

- In all areas of the park pet excrement shall be removed immediately from the park or deposited in a refuse container by the person(s) controlling the pet(s).

Reason for Determination:

The grounds are a cultural and natural resource within an urban area where concentrations of people gather. This restriction is intended to reduce any possible conflict between users and to provide for a healthy, safe environment.

36 CFR §2.16 – HORSES and PACK ANIMALS

(a) The use of horses or pack animals is permitted on the following trails, routes or areas:

- Use is prohibited unless it is a horse mounted police / patrol unit or is being unloaded at parking lot to access City of Topeka park and/or trails.
- Horses and pack animals are prohibited on sidewalks and grassy areas.

Reason for Determination:

The park is not intended for routine use of horses or pack animals. This restriction is intended to reduce any possible conflict between users and to protect the cultural landscape.

36 CFR §2.20 – SKATING, SKATEBOARDS and SIMILAR DEVICES

The use of roller-skates, roller shoes, skateboards, roller skis, coasting vehicles, or similar devices is not allowed in the following areas:

- Within the park boundaries including; all sidewalks and roadways designated for pedestrian use, in or on the Visitor Center (former Monroe Elementary School), and the parking lots.

Reason for Determination:

These restrictions are intended to reduce any possible conflict between users, protect natural and cultural resources, and for public safety concerns. In consideration of the increased potential for resource damage and the health and safety of visitors these activities are prohibited.

36 CFR §2.10 –CAMPING AND FOOD STORAGE

- Camping in the park or parking lot is prohibited.

Reason for Determination:

There are no camping facilities in the park. These restrictions are intended protect natural and cultural resources, and for public safety concerns. In consideration of the increased potential for resource damage and the health and safety of visitors these activities are prohibited.

36 CFR §2.21 – SMOKING

(a) The following portions of the park, or all or portions of buildings, structures or facilities are closed to smoking:

Smoking is prohibited:

- Within 25 feet of the exterior of the historic school house

- Within all government buildings/facilities/vehicles

Reason for Determination:

These restrictions are intended to reduce any possible conflict between users and to ensure a healthy workplace for employees and visitors. Further, smoke and gases from cigarettes, cigars, and pipes adversely affect museum exhibits and artifacts.

36 CFR §2.22 – PROPERTY

(a)(2) Property may be left unattended for periods longer than 24 hours in the following areas and under the following conditions:

- None

Reason for Determination:

Unattended property is inconsistent with the orderly management of park areas and may present a security risk or threat to other park resources. Property may not be left unattended in the park for security reasons, for possible health / safety reasons, and it is not compatible with the cultural landscape or interpretive value of the park.

36 CFR §2.12 – AUDIO DISTURBANCES

(a) The following are prohibited:

Unpermitted audio devices such as, but not limited to, a radio, digital audio device, musical instrument, television set, bullhorn, or public address system that impairs the experience of other visitors or otherwise adversely affects the park's mission is prohibited.

Reason for Determination:

Audio disturbances are not in accordance with orderly management of park to provide the visitor with a meaningful experience. Enhanced noises at levels identified in 36 CFR §2.12 are not compatible with the interpretive value of the park.

36 CFR §2.35 – ALCOHOLIC BEVERAGES AND CONTROLLED SUBSTANCES

(a)(3)(i) The following public use areas, portions of public use areas, and/or public facilities within the park are closed to consumption of alcoholic beverages, and/or to the possession of a bottle, can or other receptacle containing an alcoholic beverage that is open, or has been opened, or whose seal has been broken or the contents of which have been partially removed:

- The use, possession, or consumption of alcoholic beverages is prohibited on federally owned lands within the historic site except under the conditions of a special use permit issued by the office of the superintendent.

Reasons for Determination:

Alcoholic beverages are prohibited to decrease the potential of an intoxicated person adversely affecting a visitor's experience, and to discourage the use of the grounds of the historic site as a place to congregate for the purposes of imbibing.

36 CFR §2.38– EXPLOSIVES

(b) Fireworks and firecrackers may be possessed and/or used in the following areas, under the conditions noted:

- Possession of fireworks and firecrackers in the park is prohibited.

Reason for Determination:

The cultural landscape and historic structures are at risk with explosives within the area. No additional interpretive benefit may be derived through the authorization of fireworks or explosives.

END OF DOCUMENT